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Paper No. 8

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FEB 06 2004

In re Application of  
John R. Hess  
Application No. 09/756,907  
Filed: January 10, 2001  
Attorney Docket Number: 38644-170537

**OFFICE OF PETITIONS**  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),<sup>1</sup> filed on January 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 14, 2001, for failure to timely reply to the Notice to File Missing Parts mailed on March 13, 2001, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 13, 2004.

Receipt of the substitute oath or declaration and surcharge for its late filing is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

*Patricia Faison-Ball*  
Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).